

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

LULA WILLIAMS, GLORIA TURNAGE,  
GEORGE HENGLE, DOWIN COFFY, and  
FELIX GILLISON, JR., *on behalf of themselves  
and all individuals similarly situated,*

Civil Case No. 3:17-cv-00461-REP

Plaintiffs,

v.

BIG PICTURE LOANS, LLC; MATT MARTORELLO;  
ASCENSION TECHNOLOGIES, INC.;  
DANIEL GRAVEL; JAMES WILLIAMS, JR.;  
GERTRUDE MCGESHICK; SUSAN MCGESHICK;  
and GIIWEGIIZHIGOOKWAY MARTIN,

Defendants.

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**DEFENDANTS BIG PICTURE LOANS, LLC, ASCENSION TECHNOLOGIES, LLC,  
JAMES WILLIAMS, JR., GERTRUDE MCGESHICK, SUSAN MCGESHICK, AND  
GIIWEGIIZHIGOOKWAY MARTIN'S MOTION TO DISMISS FOR FAILURE TO  
STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED**

Specially Appearing Defendants<sup>1</sup> Big Picture Loans, LLC, Ascension Technologies, LLC,  
James Williams, Jr., Gertrude McGeshick, Susan McGeshick, and Giiwegiizhigookway Martin

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<sup>1</sup> A defendant does not submit to the jurisdiction of this Court by filing a motion to dismiss. *Hunt v. Calhoun County Bank, Inc.*, 8 F. Supp. 3d 720, 726 (E.D. Va. 2014). *See also Tomai–Minogue v. State Farm Mut. Auto. Ins. Co.*, 770 F.2d 1228, 1233 (4th Cir.1985) (recognizing that a defendant may enter a special appearance to challenge personal jurisdiction). A sovereign's limited appearance in legal proceedings for the purpose of seeking dismissal for lack of jurisdiction does not waive any claims to sovereign immunity. *See e.g., Lac du Flambeau Band of Lake Superior Chippewa Indians v. Norton*, 327 F. Supp.2d 995, 1000 (W.D. Wis. 2004) (“[Sovereign] entities may intervene for a limited purpose such as moving to dismiss the lawsuit for failure to join an indispensable party without waiving their sovereign immunity.”); *McClendon v. U.S.*, 885 F.2d 627, 630 (9th Cir.1989) (“[T]erms of [a sovereign's] consent to be sued in any court define that court's jurisdiction to entertain the suit.”) (quoting *Jicarilla Apache Tribe v. Hodel*, 821 F.2d 537, 539 (10th Cir.1987) (quoting *U.S. v. Testan*, 424 U.S. 392, 399 (1976)); *cf. Richardson v. Fajardo*

move this Court pursuant to Federal Rule of Civil Procedure 12(b)(6) for an order dismissing the Plaintiffs' Class Action Complaint. The reasons in support of this motion are set forth in the accompanying memorandum of law, which is incorporated herein by reference.

**BIG PICTURE LOANS, LLC, ASCENSION  
TECHNOLOGIES, INC., JAMES WILLIAMS,  
JR., GERTRUDE MCGESHICK, SUSAN  
MCGESHICK, AND  
GIIWEGIIZHIGOOKWAY MARTIN**

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*Sugar Co.*, 241 U.S. 44, 47 (1916) (when a sovereign government has appeared, answered a complaint, set a trial date and defended the claim for several months, rather than merely appeared for the purposes of moving to dismiss, it has waived its right to challenge jurisdiction).

**CERTIFICATE OF SERVICE**

I hereby certify that on the 29th day of September, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will then send a notification of such filing (NEF) to the following:

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